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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	Criminal Case No. _____
	)	
Plaintiff,	)	<u>I N F O R M A T I O N</u>
	)	
v.	)	Title 18, U.S.C., Sec. 371 - Conspiracy; Title
	)	18, U.S.C., Sec. 1343 - Wire Fraud; Title 18,
JOHN D. GARITTA,	)	U.S.C., Sec. 1956(h) - Money Laundering
	)	Conspiracy; Title 26, U.S.C., Sec. 7201 -
Defendant.	)	Income Tax Evasion; Title 18, U.S.C., Sec.
	)	1006 – False Entry; Title 18, U.S.C., Sec. 2 -
	)	Aiding and Abetting;
	)	

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The United States Attorney charges:

ALLEGATIONS COMMON TO ALL COUNTS

1. At all times material to this Information, Defendant JOHN D. GARITTA was the chief financial officer of a mortgage lending company known as PinnFund, U.S.A., Inc. (hereinafter, “PinnFund”), whose principal offices were located in San Diego County, California.
2. From at least 1996 on, PinnFund operated at a loss, losing over \$100 million by March 2001. PinnFund continued operating and attracting credit and new investment through March 2001 by misrepresenting its condition and operations in financial statements to creditors and investors.
3. At all times material to this Information, the Internal Revenue Service (hereinafter, “IRS”) was the agency of the United States Department of the Treasury responsible for administering and enforcing the tax laws of the United States.

1 COUNT 1

2 CONSPIRACY (WIRE FRAUD)

3 1. Beginning on or about October 1996 and continuing up to and including March 22,  
4 2001, in the Southern District of California, and elsewhere, Defendant JOHN D. GARITTA did  
5 knowingly conspire and agree with MICHAEL J. FANGHELLA (charged elsewhere) and others  
6 known and unknown to the United States Attorney to commit offenses against the United States, that  
7 is, violations of Title 18, United States Code, Section 1343 (Wire Fraud).

8 METHODS AND MEANS

9 2. It was part of the conspiracy that Defendant JOHN D. GARITTA, MICHAEL J.  
10 FANGHELLA (charged elsewhere), and others known and unknown to the United States Attorney  
11 devised, executed, and attempted to execute a scheme to defraud in which it was reasonably  
12 foreseeable that interstate wire communications would be used to further the scheme.

13 3. It was further a part of the conspiracy that to carry out the scheme, Defendant JOHN  
14 D. GARITTA, MICHAEL J. FANGHELLA (charged elsewhere), and others known and unknown  
15 to the United States Attorney:

16 (a) induced persons to invest money in PinnFund by making materially false,  
17 fraudulent, and misleading representations that investor funds would be used for originating mortgage  
18 loans, whose subsequent sale at a profit would provide earnings to investors;

19 (b) intentionally misrepresented PinnFund's true financial condition in financial  
20 statements and concealed the extent to which PinnFund was losing money from operations;

21 (c) improperly diverted investor money to pay, among other things, (i) purported  
22 earnings to investors, (ii) PinnFund's operational expenses, including payroll, (iii) commissions for  
23 recruitment of investors, and (iv) personal expenses of Defendant and others, all with full knowledge  
24 and awareness that such diversions of funds were not disclosed to, or permitted or authorized by,  
25 PinnFund's investors;

26 (d) periodically returned to investors a portion of their funds as purported earnings  
27 and capital, in order to promote and perpetuate the carrying on of the scheme, with full knowledge and  
28 awareness that all purported earnings were derived exclusively from the infusion of new investor

monies; and

(e) obtained over \$300 million from investors through the mechanism of interstate wire transfers, among other means, on the basis of the foregoing false representations and concealments, and others.

#### OVERT ACTS

In furtherance of the conspiracy and to effect its objects, the following overt acts, among others, were committed in the Southern District of California, and elsewhere.

1. On or about August 1, 1998, MICHAEL J. FANGHELLA, as Chief Executive Officer of PinnFund, signed a First Restated and Amended Spot Loan Funding Agreement with Allied Capital Partners (“Allied”) in which he represented that money invested in PinnFund through Allied would be used for the sole and exclusive purpose of mortgage loan funding.

2. On or about August 1, 1998, MICHAEL J. FANGHELLA, as Chief Executive Officer of PinnFund, signed a First Restated and Amended Spot Loan Funding Agreement with Grafton Partners (“Grafton”) in which he falsely represented that money invested in PinnFund through Grafton would be used for the sole and exclusive purpose of mortgage loan funding.

3. On or about April 1, 1999, MICHAEL J. FANGHELLA, as Chief Executive Officer of PinnFund, signed a Spot Loan Funding Agreement with Six Sigma, LLC (“Six Sigma”) in which he falsely represented that money invested in PinnFund through Six Sigma would be used for the sole and exclusive purpose of mortgage loan funding.

4. On or about September 1999, defendant JOHN D. GARITTA brought MICHAEL J. FANGHELLA certain computer equipment and data, intended to thereby assist in the creation of a “pipeline” report that would falsely represent PinnFund’s financial performance to Allied, Grafton, and Six Sigma.

5. On or about March 1998, defendant JOHN D. GARITTA, by prior arrangement with MICHAEL J. FANGHELLA, caused to be faxed to the office of Allied, Grafton and Six Sigma’s general partner Peregrine Funding, Inc., an audit confirmation of the nature of the funds provided by those entities, intending that FANGHELLA would intercept the fax, forge the signature of Peregrine’s president, and fax the document back from Peregrine’s offices to the auditors, and intending thereby

1 to deceive PinnFund's auditors as to the true nature of those funds.

2 6. One or more of the aforementioned conspirators fraudulently solicited or caused to be  
3 solicited funds in excess of \$300 million from investors, including, but not limited to, the following:

4	Date	Amount	Source
5	November 13, 1998	\$1,000,000	Allied Capital Partners
6	December 31, 1998	\$3,455,000	Grafton Partners.
7	April 29, 1999	\$961,000	Allied Capital Partners
8	May 4, 1999	\$3,300,000	Allied Capital Partners
9	May 28, 1999	\$2,000,000	Six Sigma L.L.C.
10	June 29, 1999	\$2,100,000	Allied Capital Partners
11	July 1, 1999	\$1,134,000	Grafton Partners
12	July 30, 1999	\$2,269,000	Allied Capital Partners
13	September 2, 1999	\$4,000,000	Six Sigma L.L.C.
14	October 29, 1999	\$2,200,000	Six Sigma L.L.C.
15	November 1, 1999	\$1,725,000	Grafton Partners
16	January 4, 2000	\$4,000,000	Six Sigma L.L.C.
17	February 2, 2000	\$5,000,000	Six Sigma L.L.C.
18	February 29, 2000	\$3,501,000	Grafton Partners
19	March 2, 2000	\$7,000,000	Six Sigma L.L.C.
20	May 1, 2000	\$7,357,000	Six Sigma L.L.C.
21	May 31, 2000	\$4,700,000	Grafton Partners
22	June 29, 2000	\$2,825,000	Grafton Partners
23	July 31, 2000	\$3,965,000	Grafton Partners

24 7. On or about May 26, 2000, one or more of the aforementioned conspirators caused an  
25 individual investor to wire transfer \$200,000 from a financial institution located in New Jersey to a  
26 Wells Fargo California bank account in the name of Grafton Partners.

27 8. On or about June 21, 2000, one or more of the aforementioned conspirators caused an  
28 individual investor to wire transfer \$500,000 from a financial institution located in New Jersey to a

1 Wells Fargo California bank account in the name of Allied Capital Partners.

2 All in violation of Title 18, United States Code, Section 371.

3 COUNT 2

4 MONEY LAUNDERING CONSPIRACY

5 1. Beginning on or about October 1996 and continuing up to and including March 22,  
6 2001, in the Southern District of California, and elsewhere, Defendant JOHN D. GARITTA did  
7 knowingly conspire and agree with MICHAEL J. FANGHELLA (charged elsewhere) and others  
8 known and unknown to the United States Attorney, to violate Title 18, United States Code, Section  
9 1956(a)(1)(A)(i), that is: to knowingly conduct and attempt to conduct financial transactions affecting  
10 interstate and foreign commerce which involved the proceeds of a specified unlawful activity, to wit,  
11 violations of Title 18, United States Code, Section 1343 (Wire Fraud), with the intent to promote the  
12 carrying on of a specified unlawful activity, knowing while conducting and attempting to conduct such  
13 financial transactions that the property involved in the transactions represented the proceeds of some  
14 form of unlawful activity.

15 METHODS AND MEANS

16 2. It was part of the conspiracy that Defendant JOHN D. GARITTA and others known  
17 and unknown to the United States Attorney:

18 (a) returned over \$200,000,000 of purported earnings and capital to investors in  
19 order to promote and perpetuate the carrying on of the scheme, with full knowledge and awareness  
20 that all purported earnings were derived exclusively from the infusion of new investor monies;

21 (b) induced persons to invest money in PinnFund by making materially false,  
22 fraudulent, and misleading representations that investor funds were being used for originating  
23 mortgage loans;

24 (c) intentionally misrepresented PinnFund's true financial condition in financial  
25 statements and concealed the extent to which PinnFund was losing money from operations; and

26 (d) concealed from the Internal Revenue Service the true nature of certain funds  
27 distributed to investors as purported earnings.  
28

OVERT ACTS

In furtherance of the conspiracy and to effect its objects, the following overt acts, among others, were committed in the Southern District of California, and elsewhere.

1. With the intent to promote and perpetuate the carrying on of the above-described fraudulent scheme, Defendant JOHN D. GARITTA and his coconspirators periodically returned purported earnings and capital to investors, wire transferring funds in excess of \$200 million of such purported earnings and capital through financial institutions and instrumentalities of interstate commerce, which funds actually were drawn from new investor capital contributions, including, but not limited to, the following:

Date	Amount	Destination
January 12, 1999	\$983,429	Allied Capital Partners
January 12, 1999	\$850,651	Grafton Partners
February 10, 1999	\$993,768	Allied Capital Partners
February 10, 1999	\$997,248	Grafton Partners
April 9, 1999	\$1,053,714	Allied Capital Partners
April 9, 1999	\$1,109,650	Grafton Partners
June 10, 1999	\$1,229,628	Allied Capital Partners
June 10, 1999	\$1,260,882	Grafton Partners
July 9, 1999	\$269,659	Six Sigma, L.L.C.
December 10, 1999	\$1,284,336	Allied Capital Partners
December 10, 1999	\$1,522,332	Grafton Partners
December 10, 1999	\$712,833	Six Sigma, L.L.C.
January 10, 2000	\$1,272,317	Allied Capital Partners
January 10, 2000	\$1,629,202	Grafton Partners
January 11, 2000	\$851,875	Six Sigma, L.L.C.
May 9, 2000	\$1,328,265	Allied Capital Partners
May 9, 2000	\$2,060,534	Grafton Partners
May 9, 2000	\$1,487,632	Six Sigma, L.L.C.

Date	Amount	Destination
August 9, 2000	\$1,429,716	Allied Capital Partners
August 9, 2000	\$2,545,988	Grafton Partners
August 9, 2000	\$1,883,826	Six Sigma L.L.C.
September 8, 2000	\$1,438,986	Allied Capital Partners
September 8, 2000	\$2,649,442	Grafton Partners
September 8, 2000	\$2,068,453	Six Sigma, L.L.C.

2. On a periodic basis from at least October 1996 to March 2001, MICHAEL J. FANGHELLA, alone or assisted by at least JOHN D. GARITTA created and caused to be created false PinnFund records and reports reflecting a false loan volume and concomitant earnings derived therefrom.

All in violation of Title 18, United States Code, Section 1956(h).

### COUNT 3

#### INCOME TAX EVASION

On or about November 30, 1999, in the Southern District of California, Defendant JOHN D. GARITTA, a resident of San Diego County, California, did willfully attempt to evade and defeat a large part of the income tax due and owing by him to the United States of America for the calendar year 1998, by filing and causing to be filed with the Internal Revenue Service Center at Fresno, California; a false and fraudulent U.S. Individual Income Tax Return, Form 1040, wherein he stated that his taxable income for the calendar year 1998 was the sum of \$78,854, and that the amount of tax due and owing to the United States thereon was the sum of \$16,580, whereas, as he then and there well knew and believed, his taxable income for the calendar year 1998 was the sum of \$393,053, upon which said taxable income there was owing to the United States an income tax of \$129,253.

All in violation of Title 26, United States Code, Section 7201, and Title 18, United States Code, Section 2.

1 COUNT 4

2 INCOME TAX EVASION

3 \_\_\_\_\_ On or about April 15, 2000, in the Southern District of California, Defendant JOHN D.  
4 GARITTA, a resident of San Diego County, California, did willfully attempt to evade and  
5 defeat a large part of the income tax due and owing by him to the United States of America for  
6 the calendar year 1999, by filing and causing to be filed with the Internal Revenue Service  
7 Center at Fresno, California; a false and fraudulent U.S. Individual Income Tax Return, Form  
8 1040, wherein he stated that his taxable income for the calendar year 1999 was the sum of  
9 \$110,538, and that the amount of tax due and owing to the United States thereon was the sum  
10 of \$25,549, whereas, as he then and there well knew and believed, his taxable income for the  
11 calendar year 1998 was the sum of \$1,113,291, upon which said taxable income there was  
12 owing to the United States an income tax of \$414,024.

13 All in violation of Title 26, United States Code, Section 7201, and Title 18, United  
14 States Code, Section 2.

15 COUNT 5

16 INCOME TAX EVASION

17 During the calendar year 2000, Defendant JOHN D. GARITTA, a resident of San Diego  
18 County, California, had and received taxable income in the sum of approximately \$579,470;  
19 upon said taxable income there was owing to the United States of America an income tax of  
20 approximately \$215,804; well-knowing and believing the foregoing facts, Defendant, on or  
21 about April 15, 2001, in the Southern District of California, did willfully attempt to evade and  
22 defeat the said income tax due and owing by him to the United States of America for said  
23 calendar year by failing to make an income tax return on or before April 15, 2001, as required  
24 by law, to any proper officer of the Internal Revenue Service, and by failing to pay to the  
25 Internal Revenue Service said income tax, and by committing the following affirmative acts of  
26 evasion, among others: authorizing PinnFund corporate checks made payable to cash and then  
27 causing those checks to be converted into currency or cashier's checks for his personal use;  
28



1 using a PinnFund American Express corporate credit card for personal expenditures; secreting  
2 the proceeds of illegal activity in fungible assets such as gold coins, diamonds, and jewelry, and  
3 in a foreign bank account located in Denmark; and receiving a Form W-2 for 2000 and  
4 knowingly failing to file an income tax return, as was his obligation and pattern prior to 2000.

5 All in violation of Title 26, United States Code, Section 7201, and Title 18, United  
6 States Code, Section 2.

7 COUNT 6

8 FALSE ENTRY

9 On or about March 31, 1999, within the Southern District of California, defendant  
10 JOHN D. GARITTA, being an officer, director, and employee of PinnFund, U.S.A., a mortgage  
11 lending corporation authorized and acting under the laws of the United States, with intent to  
12 deceive an officer, auditor, examiner or agent of the United States Department of Housing and  
13 Urban Development ("HUD"), knowingly made and caused to be made a false entry in the  
14 books, reports, and statements to HUD, in that Defendant claimed that funds lent to PinnFund  
15 by Grafton in 1998 were the personal funds of PinnFund's Chief Executive Officer, MICHAEL  
16 J. FANGHELLA, when in truth and in fact, as Defendant well knew, such funds were not  
17 FANGHELLA's personal funds but rather were business capital to be used for business  
18 purposes; in violation of Title 18, United States Code, Sections 1006 and 2.

19 DATED: August 23, 2002.

Respectfully submitted,

20 PATRICK K. O'TOOLE  
21 United States Attorney

22 SANJAY BHANDARI  
23 Assistant U.S. Attorney

24 KEVIN J. KELLY  
25 Assistant U.S. Attorney  
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